IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 17567 of 2007

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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SHANTILA @ RAMANBHAI MADHUBHAI PATEL & 2 - Petitioner(s)
Versus
THE STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :
MR RS SANJANWALA for Petitioner(s) : 1 - 3.
MR.SATYAM CHHAYA, ASST. GOVERNMENT PLEADER for Respondent(s) : 1 - 2.
None for Respondent(s) : 3,

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 20/07/2007

ORAL JUDGMENT

Rule. Mr.Satyam Chhaya, learned Assistant Government Pleader waives service of rule.

2. With the consent of the learned advocates the matter is taken up for final disposal. Learned advocate Mr.Sanjanwala submitted that the matter is covered by decision of this Court in Special Civil Application No.9609 of 2006 and allied matters decided on 17/18/23rd January 2007.

3. Learned advocate for the petitioners submitted that this Court (Coram: Jayant Patel, J.) taking a similar view has decided Special Civil Application No.24219 of 2006 by order dated 21.02.2007.

4. Learned advocate for petitioners submitted that in the present case also the case of the petitioners is that the impugned order is passed without taking into consideration the observations made and the conclusions recorded by this Court in the aforesaid two judgements of this Court. Therefore, the order is required to be quashed and set side. A direction is required to be issued to the Mamlatdar & ALT to decide the matter afresh.

5. Without dwelling upon the facts of the case and

the submissions made by the learned advocates, the matter is decided on this short issue that the order passed by the Mamlatdar & ALT is without taking into consideration the observations made and the conclusions recorded by this Court and therefore, for the same reasons which are recorded in the judgement and order passed in Special Civil application No.9609 of 2006 and allied matters decided on 17/18/19th January 2007 the present Special Civil Application is allowed.

Order dated 16.04.2003 (Annexure 'J' to the petition) passed by the Additional Mamlatdar & ALT (Tenancy), Chauryashi is quashed and set aside. The Mamlatdar & ALT is directed to decide the matter afresh in light of the observations made by this Court in its judgement and order dated 17/18/19th January 2007 rendered in Special Civil Application No.9609 of 2006 and allied matters.

6. Mr.Sanjanwala, learned advocate invited attention of the Court to para 9 of the petition, wherein the petitioners have undertaken to withdraw appeal filed under section 74. The Appeal shall be withdrawn

within two weeks from today. Rule is made absolute to the aforesaid extent. No order as to cost. Direct service is permitted.

(RAVI R. TRIPATHI, J.)

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